

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
THE BANK OF NEW YORK :
MELLON TRUST COMPANY, N.A., :
 :
Plaintiff-Counterclaim Defendant, :
 :
- against - :
 :
DEPFA BANK PLC and LLOYDS TSB BANK PLC, :
 :
Defendants-Counterclaimants- :
Crossclaimants-Crossclaim :
Defendants. :
-----X

No. 10 Civ. 4424 (JPO)

DEPFA BANK PLC, :
 :
Third-Party Plaintiff- :
Counterclaim Defendant, :
 :
- against - :
 :
ACCESS TO LOANS FOR LEARNING STUDENT :
LOAN CORPORATION, :
 :
Third-Party Defendant- :
Counterclaimant, :
 :
- and - :
 :
JPMORGAN CHASE BANK, N.A., :
 :
Third-Party Defendant. :
-----X

**NOTICE OF DEPFA BANK PLC'S
MOTION *IN LIMINE* TO EXCLUDE
CERTAIN EXPERT TESTIMONY**

LLOYDS TSB BANK PLC, :
 :
Third-Party Plaintiff, :
 :
- against - :
 :
ACCESS TO LOANS FOR LEARNING STUDENT :
LOAN CORPORATION, :
 :
Third-Party Defendant. :
-----X

PLEASE TAKE NOTICE that upon the Declaration of Scott M. Berman, and the accompanying Memorandum of Law, Defendant, Counterclaimant, Crossclaimant, Crossclaim Defendant, Third-Party Plaintiff, and Third-Party Counterclaim Defendant Depfa BANK plc (“Depfa”) will move this Court before the Honorable J. Paul Oetken, at the United States District Court, Southern District of New York, 500 Pearl Street, New York, New York 10007, on such date and at such time as the Court shall direct, pursuant to Federal Rule of Evidence 702, for an order:

(1) excluding all testimony of Robert Dean Pope from the trial in this action in which he offers legal opinions, including, but not limited to, pages 4 and 10 of the Pope Report, and pages 3, 4, 5, 6, 7, and 8 of the Pope Rebuttal Report;

(2) excluding all testimony of Robert I. Landau from the trial in this action in which he offers legal opinions, including, but not limited to, paragraphs 19, 20, 21, 24, 27, and 29 of the Landau Report;

(3) excluding all testimony of Robert Dean Pope from the trial in this action in which he opines on the intent, knowledge, or state of mind of an entity or an individual other than himself, including, but not limited to, pages 4, 5, and 6 of the Pope Rebuttal Report;

(4) excluding all testimony of Robert I. Landau from the trial in this action in which he opines on the intent, knowledge, or state of mind of an entity or an individual other than himself, including, but not limited to, paragraphs 29 and 35 of the Landau Report;

(5) excluding all testimony of Jeffrey L. Baliban from the trial in this action or, in the alternative, excluding all testimony of Jeffrey L. Baliban from the trial in this action in which he offers legal opinions, including, but not limited to, paragraphs 28, 39, and 40 of the Baliban Report, and all testimony in which he opines on the standard of care applicable to a trust

administrator, including, but not limited to, paragraphs 18, 20, 30, 38, 43, and 45 of the Baliban Report; and

(6) for such other and further relief as the Court deems just and appropriate.

Dated: New York, New York
October 31, 2011

Respectfully submitted,

FRIEDMAN KAPLAN SEILER
& ADELMAN LLP

By: /s/ Scott M. Berman
Scott M. Berman
Eric Seiler
Jeffrey C. Fourmaux
Christopher L. McCall
Alexander D. Levi

7 Times Square
New York, New York 10036
(212) 833-1100

*Attorneys for Defendant, Counterclaimant,
Crossclaimant, Crossclaim Defendant,
Third-Party Plaintiff, and Third-Party
Counterclaim Defendant Depfa BANK plc*